

e. Has knowingly permitted, aided or abetted the commission of any illegal act on the premises of the children's residential care facility or children's agency. (3-30-01)

110. -- 299. (RESERVED).

STANDARDS FOR DAY CARE
(Sections 300 Through 399)

300. STANDARDS FOR DAY CARE.

01. Purpose. The stated legislative purpose of Sections 39-1101 through 39-1117, Idaho Code, enacted in 1987 and as amended in 1990, 1992 and 1994, is to provide for minimum statewide day care licensing for children less than twelve (12) years of age. The purpose is to provide a statement of policy, provide exemption, define terms, designate licensing authorities and authorize the promulgation of rules. Persons with certain criminal backgrounds are prohibited from working in day care centers. Responsibilities for regulatory authority are divided between the Board, the state fire marshal, and the district health departments. As stated in Section 39-1101, Idaho Code: "It is declared to be the policy of the state to establish a minimum statewide system for the protection of children in day care centers. This system is intended to establish minimum standards, while still leaving primary responsibility for evaluation and selection of day care services with parents. The minimum standards established by this chapter shall not be construed as preempting more stringent regulation by county or city ordinance." (3-30-01)

02. Fee Charged. Fees shall be charged at the time of initial application for a basic day care license or certification. The fees will be used to cover the expenses for fire inspections, health inspections and criminal history checks. The initial application fees shall not be refundable. Basic day care licenses and certifications shall be valid for a period of two (2) years. (3-30-01)

a. Fees shall also be charged at the time of application for renewal of a license or certification. An application for renewal must be filed every two (2) years prior to the expiration of a current basic day care license or certification in order for the current license or certification to remain valid, pending the completion of the appropriate inspections. Application fees for renewal shall not be refundable. (3-30-01)

b. Fees for initial application and renewal of basic day care licenses and certifications shall be paid directly to the inspecting fire and health agencies, except for the criminal history checks that will be paid directly to the Department. (3-30-01)

c. The applicable license fee payable to the Department upon initial application or a renewal shall be reduced for any day care facility which provides evidence that at least fifty percent (50%) of its staff is certified in infant/child first aid and cardiopulmonary resuscitation. (3-30-01)

i. To receive such refund of monies paid to the Department for licensure or renewal, the applicant or owner/operator of such day care facility shall submit to the Department day care licensing unit, at any time during the period of a valid license or certificate for day care, written documentation of the number of staff in the day care facility and that at least fifty percent (50%) of that staff is certified in infant/child first aid and cardiopulmonary resuscitation. (3-30-01)

ii. Upon receipt of valid documentation that fifty percent (50%) of the staff of that day care facility is so certified, a payment equal to twenty-five percent (25%) of the licensing fee paid shall be made to the applicant or owner/operator of such licensed day care facility. (3-30-01)

03. Initial Application Fees for Basic Day Care License. All unlicensed and previously licensed day care centers caring for thirteen (13) or more children are required to submit an initial application for a basic day care license. The maximum fees for both unlicensed and previously licensed centers shall not exceed one hundred dollars (\$100) for a state license. (3-30-01)

a. The following fees will be included with the initial application for a basic day care license: (3-30-01)

- i. Criminal History Check - forty-five dollars (\$45) per person payable to the Department, when applicable; (3-30-01)
 - ii. Health Inspection - thirty-five dollars (\$35) payable to the Health District; (3-30-01)
 - iii. Fire Inspection - up to twenty dollars (\$20) payable to fire inspector or fire inspection agency; and (3-30-01)
 - iv. The fee of forty-five dollars (\$45) for the criminal history check will be charged for each licensing applicant, owner, operator, employee and volunteer at the day care center requiring a criminal history check and shall be separate and apart from the application fees for health and fire inspections. The fees for criminal history checks shall be the responsibility of the individual or day care center with which they are associated. (3-30-01)
- b.** Posting of license in a conspicuous place at the day care center is required. (3-30-01)
- c.** The Department shall obtain a criminal history check on only those applicants, owners, operators, employees or volunteers who have direct contact with the children in care and on all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. "Volunteers" when used in this chapter shall mean only those persons who have direct unsupervised contact with children in care for more than twelve (12) hours in any one (1) month. (3-30-01)

04. Application Fees for Renewal of Basic Day Care License. A basic day care license must be renewed every two (2) years. The application fee for renewal of a license shall not exceed sixty dollars (\$60). The following fees will be included with an application for renewal of a basic day care license: (3-30-01)

- a.** Department - ten dollars (\$10) payable to the Department; (3-30-01)
- b.** Health Inspection - thirty dollars (\$30) payable to the Health District; and (3-30-01)
- c.** Fire Inspection - up to twenty dollars (\$20) payable to fire inspector or fire inspection agency. (3-30-01)
- d.** It will be the responsibility of the applicant, owner, or operator of a day care center to ensure that a criminal history check is initiated within ten (10) days for staff having direct contact with children to include employees and volunteers and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. (3-30-01)

05. Initial Application Fees for Certification. All unlicensed and previously licensed group day care facilities caring for seven (7) to twelve (12) children shall not be required to be licensed but shall be certified by obtaining a fire inspection and criminal history check for staff. (3-30-01)

- a.** The following fees shall be included with the initial application for a state certification: (3-30-01)
 - i. Fire Inspection - up to twenty dollars (\$20) payable to fire inspector or fire inspection agency; (3-30-01)
 - ii. Criminal History Check - forty-five dollars (\$45) per person payable to the Department, when applicable; and (3-30-01)
 - iii. The fee of forty-five dollars (\$45) will be charged for each certification applicant, owner, operator, employee or volunteer at the group day care facility requiring a criminal history check and shall be separate and apart from the application fee for a fire inspection and shall be the responsibility of the individual or group day care facility. (3-30-01)
- b.** The fire inspection certification and verification of the required criminal history check shall be available for inspection on the premises. (3-30-01)

c. The Department shall obtain a criminal history check on only those applicants, owners, operators, employees, or volunteers and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. (3-30-01)

06. Application Fee for Renewal of Certification. A certification must be renewed every two (2) years. The application fee for renewal of a certification shall not exceed thirty dollars (\$30). The following fees will be included with the application for renewal of certification: (3-30-01)

a. Department - ten dollars (\$10) payable to the Department; and (3-30-01)

b. Fire Inspection - up to twenty dollars (\$20) payable to fire inspector or fire inspection agency. (3-30-01)

c. It will be the responsibility of the applicant, owner or operator of a group day care facility to ensure that any employees and volunteers having direct contact with children have, upon employment or assignment, a criminal history check initiated within ten (10) days for staff. (3-30-01)

07. Voluntary Compliance by Group Day Care Facilities for Basic Day Care License. A group day care facility may elect voluntarily to secure a basic day care license and must meet the same requirements as for day care centers. Group day care facilities wishing to apply for a basic day care license must comply in all cases with the requirements of a fire inspection, health inspection and criminal history check. Group day care facilities electing to secure a basic day care license shall be charged the same fees as for day care centers. (3-30-01)

08. Family Day Care Homes. Family day care homes caring for six (6) or fewer children are not required to have a basic day care license or certification. A family day care home may, however, elect voluntarily to secure a basic day care license and must meet the same requirements as for day care centers. Family day care homes wishing to apply for a basic day care license must comply with the requirements of a fire inspection, health inspection and criminal history check, when required. Family day care homes electing to secure a basic day care license shall be charged the same fees as for day care centers. (3-30-01)

09. Procedure for Criminal History Checks. The Department is hereby authorized to obtain and submit criminal history checks with fingerprints on applicants, owners, operators, employees and volunteers of day care centers, group day care facilities and family day care homes, when the home wishes to voluntarily comply with the requirements for a basic day care license. The criminal history check shall be conducted pursuant to Section 39-1113, Idaho Code, and IDAPA 16.05.06, "Criminal History and Background Checks." There shall be no additional fee charged for this criminal background check. Basic day care licenses, certifications and/or day care provider permits shall be used as a means of verifying that no record has been found pursuant to Sections 39-1113 and 39-1115(3), Idaho Code, on licensing and certification applicants, owners, operators, employees and volunteers requiring criminal history checks. (3-30-01)

10. Temporary Basic Day Care Licenses, Certifications, and Day Care Provider Permits. (3-30-01)

a. The Department may issue temporary basic day care license, temporary certifications and temporary day care provider permits to licensing or certification applicants pending the completion of the necessary day care inspections or criminal history checks. The Department may also issue temporary day care provider permits to day care providers who are owners, operators, employees and volunteers pending the completion of the criminal history check. All temporary basic day care licenses, temporary certifications and temporary day care provider permits shall be issued under the following conditions: (3-30-01)

i. Shall be issued for a period not to exceed one hundred twenty (120) days, unless otherwise extended by the Department. (3-30-01)

ii. Applicants, owners, operators, employees and volunteers requiring a criminal history check properly completing and signing a notarized self-declaration certifying that they have never been found guilty of or received a withheld judgement for any of the crimes enumerated in Sections 39-1113 and 39-1115(3), Idaho Code,

pending the completion of the criminal history check. (3-30-01)

iii. All temporary basic day care licenses and certifications are conditional upon satisfactory day care facility inspections and applicants' satisfactory criminal history checks. (3-30-01)

iv. All temporary day care provider permits are conditional upon satisfactory criminal history checks. (3-30-01)

b. If a criminal history check on an applicant for licensing or certification or a currently licensed or certified day care facility discloses an owner, operator, employee or volunteer with a guilty conviction or a withheld judgement pursuant to Sections 39-1113 and 39-1115(3), Idaho Code, the individual shall be suspended immediately from continued employment or volunteering. The day care facility and individual shall be in violation of these rules and subject to a misdemeanor if the individual is retained after receiving notice by certified mail from the Department that the individual has been found guilty of or received a withheld judgement for an offense pursuant to Sections 39-1113 and 39-1115(3), Idaho Code. (3-30-01)

11. Responsibilities of Applicants, Owners or Operators. It will be the responsibility of the applicant, owner or operator of a day care facility to maintain a personnel record on each employee and volunteer at the day care facility having direct contact with children. The personnel record shall include date of initial employment or assignment, date of termination or extended leave from employment or assignment, a copy of the day care provider permit and any other information which may be necessary to establish day care facility and personnel compliance with Section 39-1105, Idaho Code. It shall also be the responsibility of the applicant, owner or operator of a day care facility to ensure new employees and volunteers having direct contact with children, and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children, submit to the Department within ten (10) days from the date of initial employment or assigned self-declaration certifying they have not been found guilty of or received a withheld judgement for the crimes pursuant to Section 39-1115(3), Idaho Code. Two (2) fingerprint cards (FD-258) with fingerprints for personnel requiring criminal history checks shall also be completed within ten (10) days from the date of initial employment or assignment. (3-30-01)

12. Immunizations Required. Pursuant to Section 39-1118, Idaho Code, the immunizations required and the manner and frequency of their administration are referenced in Idaho Department of Health and Welfare Rules, IDAPA 16.02.11, "Immunization Requirements for Children Attending Licensed Day Care Facilities in Idaho." (3-30-01)

13. Employee Training. The owner operator of a day care center shall ensure through documentation that each employee receives four (4) hours of ongoing training every twelve (12) months after the employee's hire date. (3-30-01)

14. Preemption. These rules do not preempt more stringent local regulation or requirements. (3-30-01)

301. -- 399. (RESERVED).

STANDARDS FOR FOSTER HOMES **(Sections 400 Through 499)**

400. STANDARDS FOR FOSTER HOMES.

The standards for licensing foster homes are intended to insure that children of the state who must live away from their parents shall receive adequate substitute parental care to address their need for safety, health, and well being, that the persons providing this care are capable and suitable to meet the protection needs of children living in foster homes, and the physical environment in which these children reside is a safe setting. (3-30-01)

401. LICENSING PROVISIONS RELATED TO THE INDIAN CHILD WELFARE ACT.

These rules do not supercede the licensing authority of Indian tribes pursuant to the Indian Child Welfare Act. (3-30-01)

402. FOSTER PARENT QUALIFICATIONS AND SUITABILITY.